

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GUCCI AMERICA, INC.,

Plaintiff,

-against-

GUESS?, INC., MARC FISHER FOOTWEAR
LLC, THE MAX LEATHER GROUP/CIPRIANI
ACCESSORIES, INC., SEQUEL AG, K&M
ASSOCIATES L.P., VIVA OPTIQUE, INC.,
SIGNAL PRODUCTS, INC. and SWANK, INC.,

Defendants.

Civil Action No. 09cv4373
(SAS)(JLC)

**DECLARATION OF ROBERT C. WELSH
IN SUPPORT OF GUESS?, INC.'S
OPPOSITION TO PLAINTIFF GUCCI
AMERICA, INC.'S MOTION FOR A
PROTECTIVE ORDER AGAINST THE
DISCLOSURE OF THE PRIVILEGED
COMMUNICATIONS OF PLAINTIFF'S
IN-HOUSE LEGAL COUNSEL
JONATHAN MOSS**

ROBERT C. WELSH hereby declares as follows under penalty of perjury:

1. I am a partner in the law firm of O'Melveny & Myers, LLP, counsel to defendant Guess, Inc? in this action. I submit this declaration in opposition to plaintiff Gucci America, Inc.'s motion for a protective order against the disclosure of communications with plaintiff's in-house counsel Jonathan Moss. All of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.

2. Attached hereto as Exhibit A is an excerpt from the December 1, 2009 deposition of Gucci America, Inc.'s designated 30(b)(6) witness, in-house counsel Jonathan Moss. I took Mr. Moss's deposition and I believe the transcript to be an accurate account of what was said at the deposition.

3. Attached hereto as Exhibit B is a copy of a document downloaded from the website LinkedIn reflecting the profile for "Jonathan Moss."

4. Attached hereto as Exhibit C is a copy of a document Jonathan Moss filed on behalf of Gucci America, Inc. in a bankruptcy proceeding pending in the U.S. Bankruptcy Court for the Southern District of New York, obtained from the Public Access to Court Electronic Records (PACER) website.

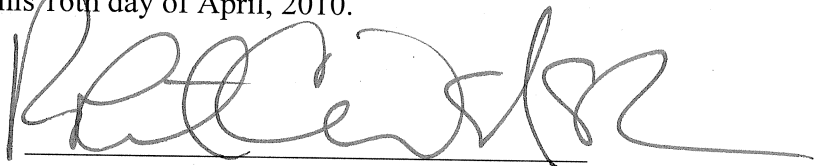
5. Attached hereto as Exhibit D is a copy of "Plaintiff Gucci America, Inc.'s Amended Privilege Log."

6. Attached hereto as Exhibit E is a copy of "Plaintiff Gucci America, Inc.'s Privilege Log."

7. Attached hereto as Exhibit F is an excerpt from the January 13, 2010 hearing in this case before Judge Shira A. Scheindlin.

8. Attached hereto as Exhibit G is a copy of the State Bar of California Membership Rules obtained from the State Bar of California State website (http://www.calbar.ca.gov/state/calbar/calbar_home.jsp). These rules appeared as the first result of a search that I conducted on the State Bar of California website using the search term "inactive status."

Declared under penalty of perjury this 16th day of April, 2010.

A handwritten signature in black ink, appearing to read "Robert C. Welsh", written over a horizontal line.

ROBERT C. WELSH

EXHIBIT A

HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLYUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

GUCCI AMERICA, INC.,

Case No. BC 370070

Plaintiffs

v.

CERTIFIED COPYGUESS?, INC., MARC FISHER FOOTWEAR
LLC, THE MAX LEATHER GROUP/CIPRIANI
ACCESSORIES, INC., SEQUEL AG,
K&M ASSOCIATES LP., VIVA OPTIQUE,
INC., SIGNAL PRODUCTS, INC. AND SWANK
INC.,**HIGHLY CONFIDENTIAL**

Defendants.

ATTORNEY'S EYES ONLY

-----X

Volume I

December 1, 2009

New York, New York

Videotaped deposition of JONATHAN MOSS, taken
on behalf of the Defendants, at O'Melveny & Myers, 7 Times
Square, New York, New York, commencing at 9:10 a.m.,
December 1, 2009, before Anthony Armstrong, a Certified
Court Reporter of the State of New York.

HIGHLY CONFIDENTIAL

ATTORNEYS' EYES ONLY

HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY

1 certified public accountant degree or
2 designation?

3 A. No.

4 Q. Did you operate as a lawyer for
5 PriceWaterhouseCoopers?

6 A. No.

7 Q. Did you graduate from law school?

8 A. Yes.

9 Q. And where did you go to law school?

10 A. Fordham.

11 Q. Okay. And when did you graduate?

12 A. '93.

13 Q. And were you admitted to any state
14 Bars?

15 A. California.

16 Q. Any others?

17 A. No.

18 Q. And are you currently an active
19 member of the California State Bar?

20 A. No.

21 Q. You're on inactive status?

22 A. Yes.

23 Q. Okay. When did you become inactive?

24 A. I believe three years ago.

25 Q. I'd like to talk to you a bit about

30




EXHIBIT B

NLF Forms - Online Forms For Attorneys & Clauses For 2010 Estate Tax Issues - From NLFForms

Jonathan Moss

Legal Counsel/Director of Real Estate at Gucci

Greater New York City Area | Real Estate

Current	• Vice President, General Counsel & Director of Real Estate at Gucci 
Past	• Manager of Business Development at McKesson Health Solutions  • Tax and Real Estate Manager at PricewaterhouseCoopers, LLP (PwC) 
Education	• New York University School of Law • Stanford University
Connections	88 connections
Public Profile	http://www.linkedin.com/in/jonathanmossny

Experience

Vice President, General Counsel & Director of Real Estate

Gucci 

Public Company; Luxury Goods & Jewelry industry

January 2002 – Present (8 years 4 months)

General Counsel, Corporate Secretary and Real Estate Director for North and South America for Gucci and its affiliated companies. Responsible for business development of new stores, trademark/brand protection, management of real estate and corporate compliance.

Manager of Business Development

McKesson Health Solutions 

Public Company; 10,001 or more employees; MCK; Pharmaceuticals industry

October 2000 – February 2002 (1 year 5 months)

Responsible for contract and pricing analysis for distribution agreements.

Tax and Real Estate Manager

PricewaterhouseCoopers, LLP (PwC) 

Real Estate industry

1996 – 2001 (5 years)

Education

New York University School of Law

LLM [Tax & Corporate Planning](#)

1993 – 1994

Stanford University


BA [Stanford University](#)

1985 – 1989

Additional Information

Groups and

Associations

 [ProLease User Group](#)

Contact Settings

Interested In

career opportunities
new ventures
expertise requests
reference requests

consulting offers
job inquiries
business deals
getting back in touch

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EXHIBIT C

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK -----X	
TIMESSQUAREMEDIA, Inc. <div style="text-align: right;">Debtor</div> -----X JOHN S. PEREIRA, As Chapter 7 Trustee <div style="text-align: right;">Plaintiff</div> <div style="text-align: center;">v.</div> GUCCI AMERICA, INC. <div style="text-align: right;">Defendant</div>	In re Case No. 00-B-14724(SMB) Chapter 7 Adversary Proceeding Case No. 02-03521

ANSWER TO COMPLAINT TO AVOID AND RECOVER AVOIDABLE TRANSFERS

Gucci America, Inc., (Defendant) through its attorney, Jonathan H. Moss, respectfully

Jurisdiction & Venue

Paragraph 1: Denies for lack of sufficient knowledge as to the alleged transfer.

Paragraphs 2 through 7: Admits

Parties

Paragraphs 8 & 9: Admits

Facts Common To All Claims

Paragraphs 10 through 14: Denies

First, Second, Third and Fourth Cause of Action

Paragraphs 15 through 31: Denies

Affirmative Defense

1. The transactions in question occurred in the regular course of the debtor's trade or business.
2. The alleged transfers were made contemporaneously with the receipt of value by the debtor.
3. The alleged transfers were not made on account of any antecedent debt and were received without any knowledge of an impending bankruptcy proceeding.

WHEREFORE, the Defendant requests that:

- (a) all causes of action be dismissed
- (b) attorneys fees be awarded as the trustee has filed this complaint without proper cause.

Dated: December 19, 2002

Gucci America, Inc.

By _____
Jonathan Moss
In-House Counsel
Gucci America, Inc.
50 Hartz Way
Secaucus, NJ 07094
(201) 770-2876

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK -----X	
TIMESSQUAREMEDIA, Inc. <div style="text-align: right;">Debtor</div> -----X JOHN S. PEREIRA, As Chapter 7 Trustee <div style="text-align: right;">Plaintiff</div> <div style="text-align: center;">v.</div> GUCCI AMERICA, INC. <div style="text-align: right;">Defendant</div>	In re Case No. 00-B-14724(SMB) Chapter 7 Adversary Proceeding Case No. 02-03521

CERTIFICATE OF SERVICE

I, Mary Ellen Scanlon, certify that I am, and at all times during the service of process was, not less than the age of 18 years of age and was not a party to the matter concerning which service of process was made. I further certify that the service of the following documents:

- (a) Answer To Complaint To Avoid and Recover Avoidable Transfers
- (b) Motion For Admission To Practice, Pro Hac Vice
- (c) Order of Admission To Practice, Pro Hac Vice
- (d) Certificate of Service

were made on December 20__, 2002 by mail service, regular U.S. Mail, first class, postage pre-paid to the addresses on the attached service list.

Under penalty of perjury, I declare that the foregoing is true and accurate.

Date

Maryellen Scanlon

SERVICE LIST

United States Trustee
Office of the U.S. Trustee
33 Whitehall Street
21st Floor
New York, NY 10004

John S. Pereira
Chapter 7 Trustee
150 East 58th Street, 24th Floor
New York, NY 10155

Jaspan Schlesinger Hoffman LLP
300 Gardent City Plaza
Garden City, NY 11530-3324
Attn: Harold D. Jones, Esq.

This document was created with Win2PDF available at <http://www.daneprairie.com>.
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EXHIBIT D

Plaintiff Gucci America, Inc.'s Amended Privilege Log

[illegible]

[illegible]

Plaintiff Gucci America, Inc.'s Amended Privilege Log

DATE	FROM	TO	COPY	BLIND COPY	SUBJECT	Basis of Privilege
January 23, 2009	Shala	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 23, 2009	Shala	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 23, 2009	Shala	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 23, 2009	Ceccherini	Volpi, Pelli			Strategic Review and Preparation of Evidence	ACP, WP
January 27, 2009	Moss	Murray			Strategic Review and Preparation of Evidence	ACP, WP
January 27, 2009	Volpi	Murray			Strategic Review and Preparation of Evidence	ACP, WP
January 27, 2009	Moss	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 27, 2009	Ederer	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 27, 2009	Ederer	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 28, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 29, 2009	Ederer	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 29, 2009	Ederer	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 29, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 29, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 30, 2009	Glopp	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
January 30, 2009	Volpi	Glopp			Strategic Review and Preparation of Evidence	ACP, WP
January 30, 2009	Murray	Volpi, Moss			Strategic Review and Preparation of Evidence	ACP, WP
January 30, 2009	Volpi	Murray			Strategic Review and Preparation of Evidence	ACP, WP
February 2, 2009	Volpi	Murray			Strategic Review and Preparation of Evidence	ACP, WP
February 2, 2009	Vernieri	Ronzaglia			Strategic Review and Preparation of Evidence	ACP, WP
February 2, 2009	Ederer	Ceccherini			Strategic Review and Preparation of Evidence	ACP, WP
February 3, 2009	Hung	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 3, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 3, 2009	Volpi	Ederer			Strategic Review and Preparation of Evidence	ACP, WP
February 3, 2009	Volpi	Hung			Strategic Review and Preparation of Evidence	ACP, WP
February 3, 2009	Ederer	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 4, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 4, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 5, 2009	Moschini	Treflus			Strategic Review and Preparation of Evidence	ACP, WP
February 5, 2009	Treflus	Volpi, Milani, Moschini			Strategic Review and Preparation of Evidence	ACP, WP
February 6, 2009	Le Diveslec	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 6, 2009	Volpi	Le Diveslec			Strategic Review and Preparation of Evidence	ACP, WP
February 6, 2009	Volpi	Moss			Strategic Review and Preparation of Evidence	ACP, WP
February 6, 2009	Moss	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 6, 2009	Volpi	Moss			Strategic Review and Preparation of Evidence	ACP, WP
February 11, 2009	Moschini	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 11, 2009	Volpi	Moschini			Strategic Review and Preparation of Evidence	ACP, WP
February 11, 2009	Moschini	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 18, 2009	Claudia Dini	Glopp			Strategic Review and Preparation of Evidence	ACP, WP
February 18, 2009	Glopp	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 18, 2009	Volpi	Glopp			Strategic Review and Preparation of Evidence	ACP, WP
February 19, 2009	Glopp	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
February 25, 2009	Volpi	Ederer			Strategic Review and Preparation of Evidence	ACP, WP
February 25, 2009	Volpi	Ceccherini, Pelli			Strategic Review and Preparation of Evidence	ACP, WP
February 25, 2009	Ilaria Fumagalli, Corporate Image Department at Guccio	Guccio SpA ("Fumagalli")			Strategic Review and Preparation of Evidence	ACP, WP
February 25, 2009	Ceccherini	Fumagalli			Strategic Review and Preparation of Evidence	ACP, WP
February 26, 2009	Ceccherini	Crescoli			Strategic Review and Preparation of Evidence	ACP, WP
March 1, 2009	Argelia Turburi, Administrative Assistant to DiMarco	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 1, 2009	Volpi	Turburi			Strategic Review and Preparation of Evidence	ACP, WP
March 2, 2009	Volpi	Di Marco			Strategic Review and Preparation of Evidence	ACP, WP
March 2, 2009	Ceccherini	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 9, 2009	Ceccherini	Crescoli			Strategic Review and Preparation of Evidence	ACP, WP
March 9, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 9, 2009	Solomon	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 9, 2009	Solomon	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 9, 2009	Solomon	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 10, 2009	Solomon	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 10, 2009	Solomon	Volpi			Strategic Review and Preparation of Evidence	ACP, WP
March 10, 2009	Volpi	Volpi			Strategic Review and Preparation of Evidence	ACP, WP

Plaintiff Gucci America, Inc.'s Amended Privilege Log

[illegible]

Plaintiff Gucci America, Inc.'s Amended Privilege Log

DATE	FROM	TO	COPY	BLIND COPY	SUBJECT	Basis of Privilege
May 4, 2009	Edeler	Roncaglia, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Roncaglia	Edeler, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Moss	Volpi	Edeler		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Edeler	Roncaglia, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Roncaglia	Edeler, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Moschini	Volpi	Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Volpi	Moschini	Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Roncaglia	Roncaglia, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Edeler	Moss, Volpi	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Volpi	Edeler, Roncaglia, Salzmann	Della Rosa, Moss, Moschini, Del Re		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Moschini	Vigileo	Del Re, Tridici, Moss, Della Rosa, Volpi, Milani, Solomon		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Moschini	Volpi, Edeler, Roncaglia, Salzmann	Della Rosa, Moss, Del Re, Moss, Tridici, Volpi		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Della Rosa	Solomon	Volpi		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Solomon	Della Rosa	Volpi		Final Preparation for Litigation Against Guess	ACP, WP

EXHIBIT E

Plaintiff Gucci America, Inc.'s Privilege Log

DATE	FROM	TO	COPY	BLIND COPY	SUBJECT	Basis of Privilege
March 13, 2007	Jonathan Wood, COO of Gucci Watch Division ("Wood")	Vanni Volpi, Intellectual Property Counsel, Guccio Gucci SPA ("Volpi")	Carlo Imo, General Counsel Guccio Gucci SPA ("Imo"), Claudia Kolb, Legal and Corporate Department at Guccio Gucci SPA ("Kolb"); Michel Millet, CFO of Guccio Timepieces ("Millet"); Steve Holland, UK COO of Gucci Watch Division ("Holland"); F. Buccola, CFO of Guccio Gucci SPA ("Buccola"). Mark Lee, President and CEO of Guccio Gucci SPA ("Lee")	Guess Twirl Watch	Attorney Client Privilege ("ACP"), Work Product ("WP")	
March 13, 2007	Lee	Wood	Guccio Gucci, SpA ("Belletini"), Wood, Millet, Holland, Buccola, A. Gillespie, Communications Department of Guccio Gucci, SpA ("Gillespie"), Volpi, G. Masia, PR Department of Guccio Gucci, SpA ("Masia")	Guess Twirl Watch		
March 13, 2007	Volpi	Lee	Gillespie, Masia	Guess Twirl Watch	ACP WP	
March 13, 2007	Lee	Volpi	Imo, Kolb, Belletini; Wood, Millet, Holland, Buccola; Gillespie, Masia	Guess Twirl Watch	ACP WP	
March 13, 2007	Lee	Volpi	Imo, P. Francesco Teruggi, Intellectual Property Paralegal, Guccio Gucci SPA ("Teruggi"); Laura Ceccherini, Paralegal - Intellectual Property Department - Guccio Gucci, SpA ("Ceccherini")	Guess Twirl Watch	ACP WP	
March 13, 2007	Volpi	Carlo Del Bo, Gucci Security Manager ("Del Bo")	Del Bo	Guess Twirl Watch	ACP WP	
March 13, 2007	Monica Teruggi, Corporate Security Offices, Guccio Gucci, SpA ("Teruggi")	Volpi		Guess Twirl Watch	ACP WP	
March 14, 2007	Jonathan Moss, In-House Counsel at Gucci America, Inc. ("Moss")	Viale	Belletini, Viale, Moss, Volpi	Guess Twirl Watch	ACP WP	
March 15, 2007	Lee	Imo	Belletini, Viale, Moss, Volpi	Guess Twirl Watch	ACP WP	
March 15, 2007	Volpi	Moss	Imo	Guess Twirl Watch	ACP WP	
March 15, 2007	Moss	Volpi	Imo	Guess Twirl Watch	ACP WP	
March 15, 2007	Volpi	Miss Watanabe, Intellectual Property Department, Guccio Japan ("Watanabe"); Masayoshi Nozawa, Intellectual Property Department, Guccio Japan ("Nozawa"); Bernie Hung, Legal Counsel, Guccio Asia Pacific ("Hung"); Tim Shala, Security Manager, Guccio UK ("Shala"); Murray, Massimo Giannoccaro, Security Manager, Guccio France ("Giannoccaro")	Imo, Moss; Wood, Millet, Noriyuki Yanagi, CFO, Guccio Japan ("Yanagi"); Del Bo, Theresa Ceccherini	Guess Twirl Watch	ACP WP	
March 15, 2007	Volpi	Teruggi	Del Bo	Guess Twirl Watch	ACP WP	
March 16, 2007	Scott Haycock, Security and Investigations Manager, Guccio Asia Pacific ("Haycock")	Volpi	Del Bo, Hung	Guess Twirl Watch	ACP WP	
March 16, 2007	Volpi	Haycock	Del Bo, Hung	Guess Twirl Watch	ACP WP	
March 19, 2007	Moss	Volpi	Murray	Guess Twirl Watch	ACP WP	
March 19, 2007	Volpi	Moss	Del Bo, Imo, Theresa, Masaki, Iwase, CEO of Guccio Japan ("Iwase"); Nozawa, Yanagi	Guess Twirl Watch	ACP WP	
March 19, 2007	Volpi	Watanabe		Guess Twirl Watch	ACP WP	
March 23, 2007	Murray	Volpi		Guess Twirl Watch	ACP WP	
March 23, 2007	Volpi	Murray	Del Bo, Imo, Theresa, Nozawa, Yanagi, Iwase	Guess Twirl Watch	ACP WP	
April 17, 2007	Watanabe	Volpi	Lee, Imo, Millet	Guess Twirl Watch	ACP WP	
April 18, 2007	Lee	Wood	Imo, Millet, Buccola	Guess Twirl Watch	ACP WP	
April 19, 2007	Volpi	Wood		Guess Twirl Watch	ACP WP	
April 19, 2007	Moss	Volpi		Guess Twirl Watch	ACP WP	
April 19, 2007	Volpi	Moss		Guess Twirl Watch	ACP WP	
April 19, 2007	Volpi	Moss		Guess Twirl Watch	ACP WP	
April 19, 2007	Volpi	Moss		Guess Twirl Watch	ACP WP	
June 3, 2007	Louis Edrner, Arnold & Porter LLP ("Edrner")	Volpi, Moss	Del Bo, Imo, Theresa Ceccherini	Guess Twirl Watch	ACP WP	
June 4, 2007	Moss	Volpi		Guess Twirl Watch	ACP WP	
June 4, 2007	Volpi	Moss		Guess Twirl Watch	ACP WP	
June 4, 2007	Moss	Volpi		Guess Twirl Watch	ACP WP	
June 4, 2007	Moss	Murray	Volpi	Guess Twirl Watch	ACP WP	
June 4, 2007	Moss			Investigation into Guess Products	ACP WP	
March 17, 2008	Cheryl A Solomon, General Counsel Guccio Group Services Ltd ("Solomon")	Volpi		Investigation into Guess Products	ACP WP	

Plaintiff Gucci America, Inc.'s Privilege Log

[illegible]

Plaintiff Gucci America, Inc.'s Privilege Log

[illegible]

Plaintiff Gucci America, Inc.'s Privilege Log

[illegible]

Plaintiff Gucci America, Inc.'s Privilege Log

[illegible]

Plaintiff Gucci America, Inc.'s Privilege Log

DATE	FROM	TO	COPY	BLIND COPY	SUBJECT	Result of Privilege
May 4, 2009	Roncaglia	Ederer, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Moss	Volpi	Ederer		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Ederer	Roncaglia, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Roncaglia	Ederer, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Moschini	Volpi	Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Volpi	Moschini			Final Preparation for Litigation Against Guess	ACP, WP
May 4, 2009	Moschini	Volpi	Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Ederer	Roncaglia, Volpi, Salzmann	Della Rosa, Moss, Moschini, Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Moss	Moss, Volpi			Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Volpi	Ederer, Roncaglia, Salzmann	Della Rosa, Moss, Moschini, Del Ra		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Moschini	Vigilazio	Del Ra, Trefus, Maria, Della Rosa, Volpi, Milani, Solomon		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Moschini	Volpi, Ederer, Roncaglia, Salzmann	Della Rosa, Moss, Del Ra, Maria, Trefus		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Della Rosa	Solomon	Volpi		Final Preparation for Litigation Against Guess	ACP, WP
May 5, 2009	Solomon	Della Rosa	Volpi		Final Preparation for Litigation Against Guess	ACP, WP

EXHIBIT F

0ld5gucA argument

1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2
3 GUCCI AMERICA, INC.,,

3
4 Plaintiff,

4
5 v.

09 CV 4373 (SAS)

5
6 GUESS? INC., et al.,

6
7 Defendants.

7
8 -----x

8
9 January 13, 2010
9 3:15 p.m.

10 Before:

10
11 HON. SHIRA A. SCHEINDLIN,

11
12 District Judge

12
13 APPEARANCES

13
14 ARNOLD & PORTER, LLP

14 Attorneys for Plaintiff

15 BY: LOUIS S. EDERER

15 MATTHEW T. SALZMANN

16
16 O'MELVENY & MYERS, LLP

17 Attorneys for Defendant Guess?, K&M, Swank, Sequel AG,

17 Viva Optique

18 BY: ROBERT C. WELSH

18 JORDAN RAPHAEL

19
19 HINKHOUSE, WILLIAMS, WALSH, LLP

20 Attorneys for Defendant Max Leather

20 BY: JOHN T. WILLIAMS

21
21 HISOCK & BARCLAY, LLP

22 Attorneys for Defendant Marc Fisher

22 BY: DARREN SAUNDERS

23 ALPA V. PATEL

23
24 DARBY & DARBY

24 Attorneys for Defendant Swank

24 BY: PAUL FIELDS

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

01d5gucA argument

1 MR. EDERER: What Mr. Welsh just read you was in
2 response to a question about what document did he tell you to
3 look for.

4 THE COURT: I understand.

5 MR. WELSH: Your Honor, as a result we have a clear,
6 gross negligence on the part of Gucci with regard to document
7 preservation. And, moreover, and this is the other part of it
8 that we have learned which is in light of Gucci's production
9 which has been absent of any relevant information pertaining to
10 Guess and its charges against Guess, for example as I have
11 mentioned before we are very interested to know when Gucci
12 first learned about the marks in question because they've been
13 in the marketplace.

14 THE COURT: I agree. That's a fair subject. That all
15 goes to this concept of laches or abandonment or whatever it is
16 called and we do have to explore that.

17 MR. EDERER: And I responded to that the other day,
18 your Honor. We had this exact conversation the other day. I
19 said we have found a handful of references that we consider
20 them to be privileged in the e-mails.

21 THE COURT: Oh, yes. You said you were going to list
22 them.

23 MR. EDERER: And I will log them and provide them to
24 counsel.

25 THE COURT: The question is where did you search.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

0ld5gucA argument

1 MR. EDERER: We searched on every tape that we have
2 backup going back --

3 THE COURT: No, you didn't. I think that's Gucci
4 America.

5 His whole point is your search wasn't broad enough.
6 He talked about Italy, he had evidence from some action in
7 Milan or something -- who remembers -- but roughly if you had
8 searched in the right places you might have found that Gucci
9 was aware of the Guess use of marks long ago and did nothing
10 about it. He is saying you can't just not look and then say we
11 found a handful and are listing them as privileged. You found
12 a handful here. What have you done in Italy.

13 MR. EDERER: We are searching the e-mail account of
14 Mr. Vanni Volpi.

15 THE COURT: I know, but you don't get to decide that
16 it was that limited. If there was an action that was brought
17 in Milan the whole company there was on to this Guess problem
18 and it wasn't limited to one guy -- and I don't remember the
19 name, I want to remember the name -- but there were other folks
20 there who were onto the problem and if they didn't preserve
21 records, if records haven't been searched then Gucci doesn't
22 want to let Guess know how long ago it was aware of this and
23 didn't do anything about it.

24 MR. EDERER: Well, I completely disagree with that,
25 your Honor.

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1 First of all Mr. Volpi -- the testimony was that he
2 has been there and in 2007 he was involved in an initiative
3 with respect to Guess here in the United States. He's the
4 point man in Italy for all of this. Okay? We are searching
5 his e-mail account. If there is anything in there it is going
6 to be in his account. Okay?

7 THE COURT: Okay. Well, maybe we are early again and
8 you will find something. When are you going to have the
9 production from Volpi?

10 MR. EDERER: I have to check on that, your Honor, but
11 I expect within two weeks. We are talking about servers that
12 are in Switzerland, offsite.

13 THE COURT: I know. That we did discuss last time.

14 MR. EDERER: And if I may say, your Honor, Mr. Welsh
15 is asking you to order us to do a system-wide search of two
16 Gucci entities in Europe involving hundreds of employees, some
17 of whom are present, some of whom are former, and as you
18 mentioned the other day you are familiar with the privacy law
19 issues in Europe, you are talking about us having to get
20 waivers, privacy waivers from hundreds of employees for what?
21 Looking for what?

22 THE COURT: He was very specific looking for what.
23 When did Gucci become aware of what it now claims is Guess' use
24 of infringing marks. And you have been very broad about the
25 marks. I remember. The handwriting it is not just one thing.

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1 All kinds of things, the square G, the four Gs, the
2 handwriting -- handwriting is the silliest of all, we talked
3 about that purse, but okay.

4 When did you realize it? What actions did you take or
5 not take? What kind of correspondence was there? He's right
6 that's a big defense that they have.

7 MR. EDERER: And we have e-mails.

8 THE COURT: You have some e-mails that you are not
9 going to give because they're privileged.

10 MR. EDERER: Correct.

11 THE COURT: That's useless. That's useless.

12 MR. WELSH: That's right.

13 THE COURT: They may be correspondence between
14 business people.

15 MR. EDERER: And we have searched for that on the
16 backup tapes here.

17 THE COURT: Here. We understand here.

18 MR. EDERER: My point is we have intellectual property
19 counsel in Europe who would be the point person for all of
20 this.

21 THE COURT: So, he is an attorney and you are going to
22 claim privilege, you know this is not useful, and an attorney
23 by the way, the European attorney's communications with the
24 client are not covered by the attorney-client privilege in
25 Europe. I just was researching that for one of my many, many

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commitments, shall we say.

MR. EDERER: I understand.

THE COURT: They have a different privilege so you are not going to tell me all of that. It is too convenient for everybody to be a lawyer and everything be privileged and Mr. Welsh learns nothing. This is an issue in this case. When did Gucci understand what Guess was doing and why did it or did it not take action. That's a real issue. That's not a made up issue.

MR. EDERER: If we claim privilege with respect to it we are still going to find out when it happened and what the subject matter the e-mail was. We have provided that information. We may have a problem with privilege in Europe as you suggest and we might find from a search of Mr. Volpi's account, for example, that there was a correspondence between business people that was then forwarded to him.

THE COURT: Okay.

MR. EDERER: The e-mail to him may not.

THE COURT: Once again, too early.

MR. WELSH: Your Honor, I think fundamentally Mr. Ederer doesn't get to decide what parts he is going to search and what parts he is not.

THE COURT: I agree. But just as you made the proportionality argument, he is making the same one in a sense. He is saying really, Judge, you are not going to tell me that I

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1 ideas. I'm not interested.

2 Infringement is a tricky idea, it isn't for laypeople.
3 I could care if he thought they stole your design because that
4 is a little thin given they used it in the '60s.

5 MR. WELSH: I'm talking about awareness. That's
6 another source of awareness.

7 THE COURT: I understand that.

8 I'm telling you, Mr. Ederer, that's a serious issue,
9 for the third time; when you knew your client knew things or
10 may have acted is an issue because this stuff is old.

11 MR. EDERER: Your Honor, can I say something about
12 that? Because the Guess script that Mr. Welsh told you and he
13 waved in front of you, that they've been doing for 10 years.

14 THE COURT: I don't know waving in front of me. There
15 was a leopard in the neighborhood that nobody could think was
16 Gucci because it said Guess in the huge letters.

17 MR. EDERER: We will argue whether they're using the
18 Gucci font and all that stuff but my point is that the Guess
19 script that we're complaining about is the Gucci font and they
20 switched to it in 2008 right around the same time they started
21 using other icons and design. It was all part of a scheme, a
22 plan, your Honor.

23 And Mr. Welsh likes to show you -- well, he didn't
24 show you this because if you really looked at it you would see
25 that these aren't the Guess scripts that we're complaining

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EXHIBIT G

The State Bar of California
MEMBERSHIP RULES

TITLE TWO. RIGHTS AND RESPONSIBILITIES OF MEMBERS
(Effective August 18, 2006)

Division 1. Member record

Rule 2.1 Roll of attorneys

The State Bar maintains, on the official membership records of the State Bar, the roll of all attorneys admitted to practice in California.¹

Rule 2.2 Public information

A member record contains public information, including the following:

- (A) last name, first name, and any middle names;
- (B) State Bar member number;
- (C) date and place of birth;
- (D) address and telephone number;
- (E) e-mail address;
- (F) date of admission in California;
- (G) places and dates of admission in other jurisdictions before admission in California;
- (H) membership status;
- (I) date of any transfer from one membership status to another;
- (J) date and period of any discipline; and
- (K) any other information as directed by the Supreme Court or otherwise required by law.

Rule 2.3 Duty to update member record

- (A) A member must inform the State Bar of a change of address, telephone number, or e-mail address no later than 30 days after making the change. The member must report a change of address or telephone number online or using the State Bar Address Change Form.² The member must make a change of e-mail address online.
- (B) A member must inform the State Bar of a change of name no later than 30 days after making the change. The member must report the change using the State Bar Name Change Form.³

¹ California Rule of Court, Rule 950.5, states that "The State Bar shall maintain, as part of the official membership records of the State Bar, the Roll of Attorneys of all persons admitted to practice in this State. Such records shall include the information specified in sections 6002.1 and 6064 of the Business and Professions Code and other information as directed by the Court."

² See http://calbar.ca.gov/state/calbar/calbar_sections_generic.jsp?cid=12535&id=1017.

³ See http://calbar.ca.gov/state/calbar/calbar_sections_generic.jsp?cid=12535&id=1025.

Division 2. Annual membership fees and penalties

Rule 2.10 Definitions

- (A) “Annual membership fees” are those fees that any member must pay to maintain active or inactive membership in a calendar year. These fees may include additional assessments and costs prescribed by law.⁴
- (B) “Penalties” are the surcharges assessed any member who fails to pay annual membership fees on time.

Rule 2.11 Due date

A member must pay the annual membership fees set forth in the Schedule of Charges and Deadlines each calendar year no later than February 1.

Rule 2.12 New members

A new member must be enrolled as active and pay initial fees within 30 days of the invoice date for the fees as follows:

- (A) full annual membership fees if admitted between January 1 and May 31;
- (B) half the annual membership fees if admitted between June 1 and November 30;
- (C) the administrative fee for admission set forth in the Schedule of Charges and Deadlines if admitted in December.

Rule 2.13 Late payment penalties

Late payment of annual membership fees is subject to the penalties set forth in the Schedule of Charges and Deadlines.

Rule 2.14 No refund

Unless these rules provide otherwise, a member is not entitled to a refund of annual membership fees because of death, resignation, disbarment, transfer to inactive status, entering judicial office, or for any other reason.

Rule 2.15 Scaling

- (A) An active member who has a total gross annual individual income from all sources of less than \$40,000 may request to scale or reduce annual membership fees by 25%. The request must be submitted by the date set forth in the Schedule of Charges and Deadlines and include
 - (1) the Active Member Fee Scaling Declaration,⁵ a declaration under penalty of perjury; and

⁴ See Business & Professions Code §§ 6140.5, 6140.7.

⁵ See http://calbar.ca.gov/state/calbar/calbar_sections_generic.jsp?cid=12535&id=1027.

- (2) payment of the reduced fee.

New members admitted after May 31 do not qualify for scaling but must pay half the annual membership fees.

- (B) An employer that receives State Bar Legal Services Trust Fund grants and is a qualified legal services project or qualified support center as defined by statute⁶ may scale or reduce annual membership fees by 25% for an active member employed on a continuous full-time basis. The request must be submitted by the date set forth in the Schedule of Charges and of Deadlines and include
 - (1) the Qualified Employer Fee Scaling Declaration, a declaration under penalty of perjury that the employer is qualified and pays annual membership fees on the member's behalf; and
 - (2) payment of the reduced fee.
- (C) Members who scale are subject to audit and upon request must provide the State Bar with past federal and state income tax returns or other acceptable documentation of financial condition.
- (D) If the State Bar determines that a member is ineligible to scale, the member must pay full annual membership fees and any late payment penalties.

Rule 2.16 Waivers

- (A) In this rule, "annual membership fees" and "penalties" are construed narrowly and do not include
 - (1) disciplinary costs⁷ or monetary sanctions,⁸
 - (2) Client Security Fund disbursements and costs,⁹
 - (3) mandatory fee arbitration award penalties and costs,¹⁰
 - (4) Minimum Continuing Legal Education ("MCLE") noncompliance or reinstatement penalties,¹¹ or
 - (5) any other charges that may be added to annual membership fees for failure to comply with obligations imposed by court order, statute, or rule.

⁶ See Business & Professions Code § 6210 et seq.

⁷ See Business and Professions Code § 6086.10.

⁸ See Business and Professions Code § 6086.13.

⁹ See Business and Professions Code § 6140.5.

¹⁰ See Business and Professions Code § 6203(d)(3).

¹¹ See Business and Professions Code § 6070 and the State Bar's MCLE rules.

- (B) To be considered for the current year, a request must be submitted by February 1. Requests submitted after February 1 must be accompanied by full payment of any outstanding charges, which will be refunded if the request is granted.
- (C) The Secretary may waive up to \$1,000 in annual membership fees and related penalties for the year in which they are due, provided that the request is
 - (1) in writing;
 - (2) supported by satisfactory documentation; and
 - (3) for any of the following reasons:
 - (a) the member is prevented or greatly impaired from pursuing a livelihood for a substantial part of the membership year because of a physical or mental condition, natural disaster, or family emergency;
 - (b) the member has a total annual income from all sources of \$20,000 or less;
 - (c) the member serves full-time as a magistrate, commissioner, or referee, or in another similar capacity for a state or federal court of record;
 - (d) the member is a retired judge who accepts assignments from the Chief Justice of California to act in a judicial capacity at least 90% of the calendar year;
 - (e) the State Bar has erroneously assessed the annual membership fees or related penalties; or
 - (f) for any other reason, on a one-time-only basis, if the member has no previous record of discipline or administrative suspension.
- (D) The Secretary may waive annual membership fees and related penalties for a member serving in the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, or the Coast Guard Reserve provided that
 - (1) the member has been ordered to report to full-time active duty for more than 30 days;
 - (2) a request for waiver is submitted in writing by the member, member's spouse, relative, law partner or associate, or legal representative and accompanied by:

- (a) a copy of the order to report for active duty, or
- (b) a copy of the order to report for active duty and a certified declaration by a JAG officer that the member has served on active duty for more than 30 days.

A member granted a waiver under this rule must notify the State Bar within 30 days upon termination of the assignment to active duty.

- (E) Annual membership fees are waived for the year in which a judicial officer leaves office and returns to membership in the State Bar.
- (F) The Secretary may waive unpaid annual membership fees and penalties accrued by former justices and judges of courts of record since their leaving office, if such members have paid current annual membership fees and related penalties. This rule sunsets December 31, 2007 unless the board extends it.
- (G) Annual membership fees are waived for inactive members who are 70 years of age on February 1.
- (H) Annual membership fees may be waived for a member who is an emeritus attorney.
- (I) The board reserves the right
 - (1) to grant requests for waivers denied by the Secretary if there is good cause; and
 - (2) to consider all other requests for waivers.
- (J) A waiver granted under this rule does not remove a court-ordered suspension for nonpayment of fees or penalties.

Division 3. Member status

Rule 2.30 Inactive membership

- (A) Any member not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request, be enrolled as an inactive member. The Secretary may, in any case in which to do otherwise would work an injustice, and subject to any directions which may be given by the board permit retroactive enrollment of inactive members.
- (B) No member practicing law, or occupying a position in the employ of or rendering any legal service for an active member, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive member.

- (C) Notwithstanding (A) and (B) a member serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive member if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.

Rule 2.31 Change of membership status

- (A) A member may apply to change from active to inactive status or vice versa by submitting the Transfer to Active Status Form¹² or the Transfer to Inactive Status Form¹³ with the transfer fee indicated in the Schedule of Charges and Deadlines. A change to inactive by February 1 entitles the member to pay the annual fees of an inactive member. A change to inactive after that date does not entitle the member to a refund of active fees.
- (B) While suspended, a member cannot change membership status.

Rule 2.32 Inactive enrollment for failure to comply with Minimum Continuing Legal Education requirements

- (A) A member who fails to meet requirements for Minimum Continuing Legal Education (MCLE) will be enrolled as inactive.
- (B) To terminate inactive enrollment for MCLE noncompliance, a member must comply with the MCLE rules governing reinstatement.¹⁴
- (C) Annual membership fees continue to accrue at the inactive rate.

Rule 2.33 Suspension for failure to pay annual membership fees and outstanding penalties or costs

- (A) A member who fails to pay annual membership fees or any outstanding penalties or costs will be sent a final delinquency notice at the member's address of record. If the State Bar fails to receive full payment of the amount due within two months of sending the final delinquency notice, the State Bar will recommend that the Supreme Court suspend the member from the practice of law.¹⁵
- (B) Annual membership fees continue to accrue according to the member's status prior to suspension.
- (C) To terminate suspension for nonpayment, a member must pay
 - (1) all current and accrued fees, penalties, and costs; and

¹² See http://calbar.ca.gov/state/calbar/calbar_sections_generic.jsp?cid=12535&id=1028.

¹³ See http://calbar.ca.gov/state/calbar/calbar_sections_generic.jsp?cid=12535&id=1029.

¹⁴ See MCLE Rules and Regulations (http://calbar.ca.gov/calbar/pdfs/certification/MCLE_Rules_05_03.pdf), rule 13.1: Enrollment As Inactive Member: "A member failing to comply with the requirements after the 60-day period for compliance has expired shall be enrolled as an inactive member by the Board of Governors or an officer of the State Bar or his or her designee." Reinstatement is governed by MCLE Rules and Regulations § 14.

¹⁵ Business and Professions Code § 6143.

- (2) the reinstatement fee set forth in the Schedule of Charges and Deadlines.

The payment must be made in cash or in guaranteed funds by cashier's check, money order, bank certified check, or wire transfer.

- (D) The State Bar will seek by an amendment nunc pro tunc to retroactively strike the name of a member from the Supreme Court Order of Suspension for Nonpayment if the suspension resulted from State Bar error.

Rule 2.34 Suspension for failure to comply with a family or child support obligation

- (A) A member identified under the terms of Family Code § 17520 as failing to comply with a judgment or court order for child or family support will be suspended from the practice of law by the Supreme Court.¹⁶
- (B) The State Bar will send a written notice of suspension for failure to pay child or family support to the member's address of record. The suspension will be effective on the date ordered by the Supreme Court.
- (C) The State Bar will ask the Supreme Court to reinstate a member if it receives statutory notice¹⁷ that the obligation has been discharged and if the member has paid annual membership fees and any surcharge authorized by statute.¹⁸
- (D) If a reinstated member subsequently fails to comply with a judgment or court order for child or family support,¹⁹ the State Bar will request that the Supreme Court suspend the member within 30 days and will send written notice of its request to the member's address of record.
- (E) Annual membership fees continue to accrue according to the member's status prior to suspension.

Rule 2.35 Suspension for disciplinary violations

- (A) A member who is suspended by the California Supreme Court as a result of disciplinary violations must pay full annual membership fees.
- (B) Annual membership fees continue to accrue according to the member's status prior to suspension.
- (C) If a member is suspended for an entire calendar year, the member is not required to pay annual membership fees for that year. Upon expiration of the suspension, and within 30 days of the invoice, the member must pay full annual membership fees for the current year.

¹⁶ California Rules of Court, Rule 962.

¹⁷ Family Code § 17520.

¹⁸ Family Code § 17520 (n).

¹⁹ Family Code § 17520.

The State Bar of California
EMERITUS ATTORNEY RULES
(Effective August 18, 2006)

A. The Secretary or designee shall waive, as provided in this section, the payment of the annual membership fees for any member acting exclusively as an emeritus attorney.

B. Definitions

- (1) An “emeritus attorney” is an active member of the State Bar of California, who other than to provide free civil legal services in association with a qualified legal services provider or a lawyer referral service would be retired from and not engaged in the practice of law, and otherwise would be an inactive member; and
 - (a) Has been engaged in the practice of law, has served as a judge, or has engaged in any combination of practice of law and service as a judge in California for a minimum of three out of the eight years immediately preceding the application to participate in the emeritus program, and was admitted to practice law in a jurisdiction in the United States at least ten years prior to filing his or her application for the emeritus program; and
 - (b) Has been a member in good standing of the State Bar of California and has no record of public discipline for professional misconduct imposed at any time within the past 15 years by the California Supreme Court, the State Bar or any other jurisdiction in which the member is admitted and did not resign or retire from the practice of law with disciplinary charges pending; and
 - (c) Neither asks for nor receives compensation of any kind for the legal services to be rendered hereunder.
- (2) A “qualified legal services provider” for the purposes of this rule is a not-for-profit legal services organization which is receiving or is eligible to receive funds from the Legal Services Trust Fund Program as either a “qualified legal services project” as defined in Business and Professions Code sections 6214 and 6214.5 or a “qualified support center” as defined in Business and Professions Code section 6215.
- (3) A “lawyer referral service” for the purposes of this rule is a lawyer referral service certified by the State Bar of California under Business and Professions Code section 6155. An emeritus attorney’s participation must be limited to the no-fee panel or pro bono clinic of the service, not the reduced fee panel or modest means program of the service.

C. Limitations

- (1) Except for the acts and services performed in association with a qualified legal services provider or a certified lawyer referral service, an emeritus attorney shall not otherwise engage in the practice of law, without payment of active membership fees.
- (2) The prohibition against compensation for the emeritus attorney contained in subdivision B(1)(c), above, shall not prevent the qualified legal services provider or certified lawyer referral service from reimbursing the emeritus attorney for actual expenses incurred while rendering services hereunder. The qualified legal services provider or certified lawyer referral service shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

D. Waiver of Active Fees

The Secretary or designee shall waive the annual membership fees upon:

- (1) The filing of a statement by a qualified legal services provider or certified lawyer referral service stating the name of the member applying for emeritus attorney in association with that provider or services, certifying that the emeritus attorney will not be paid any compensation, and agreeing to notify the State Bar within ten days when the association of the emeritus attorney has ceased.
- (2) The filing of a sworn statement by the applicant for emeritus attorney that he or she:
 - (a) Has fulfilled the requirements of paragraphs B(1) (a) and (b) of this section;
 - (b) Has read and is familiar with the Rules of Professional Conduct and provisions of the State Bar Act (Bus & Prof. Code, §6000 et seq.) relating to the professional duties and obligations of an attorney at law and abide by the provisions thereof;
 - (c) Will neither ask for nor receive compensation of any kind for the legal services authorized hereunder;
 - (d) Has not engaged in the practice of law in the current calendar year and does not intend to practice law except in association with the legal services provider and as provider in this section;
 - (e) If the applicant is currently an inactive member, requests that he or she be enrolled as an active member and that the annual active membership fee be waived as provided in this section.

- (3) Certification by the State Bar that the applicant has been engaged in the practice of law, has served as a judge or has engage in any combination of practice of law and service as a judge in California for a minimum of three out of the last eight years, has been a member in good standing of the State Bar of California with no record of public discipline for professional misconduct imposed at any time within the past ten years by the California Supreme Court, the State Bar, or any other jurisdiction in which the member is admitted, and did not resign or retire from the practice of law with disciplinary charges pending.

E. Withdrawal of Waiver

- (1) Waiver of active membership fees pursuant to this rule shall be withdrawn upon termination of the association of the emeritus attorney with the qualified legal services provider or certified lawyer referral service, or for any good cause.
- (2) Upon withdrawal of waiver, the annual active membership fee for the current year shall become due and payable. If the waiver is withdrawn on or before June 30th of any year, active membership fee shall be the full active membership fee for the current calendar year. If the waiver is withdrawn subsequent to June 30, the active membership fee for the current year shall be one-half the full active membership fee for the current calendar year, less any inactive membership fee paid by him or her as an inactive member for such year. If the emeritus attorney upon withdrawal of the waiver does not intend to practice law, he or she may be enrolled as an inactive member upon written request and payment of the inactive fees.

F. Waiver of Eligibility Criteria for Emeritus Attorney Applicants

In the event an applicant fails to fully comply with each and every one of the requirements in these Rules, but in the opinion of the Secretary or designee, waiver would be in the best interest of the Emeritus Attorney Pro Bono Participation Program, the Secretary or designee may waive eligibility criteria. The following factors would be relevant when considering a waiver of any of the eligibility criteria: nearness to full compliance with the eligibility criteria; the need for legal services in the geographic area; the availability of pro bono lawyers in the geographic area; whether the emeritus attorney applicant has previously provided pro bono legal services through a qualified legal services

Schedule of Charges and Deadlines for 2007

Adopted by the Board of Governors
August 19, 2006

Note: Charges are base amounts that may be increased as specified by rule or otherwise authorized by law.

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>2007 deadline</i>
2.11	Annual membership fees for active membership	\$400.00	February 1
	Annual membership fees for inactive membership	\$125.00	February 1
2.12	(A) Admission between January 1 and May 31	\$400.00	45 days from invoice date
	(B) Admission between June 1 and November 30	\$200.00	45 days from invoice date
	(C) Administrative fee for admission in December	None	N/A
2.13	Penalties for late payment of annual fees received at the State Bar or USPS-postmarked <i>after February 1, 2007</i> .		
	(A) Active Members	\$100.00	February 1
	(B) Inactive Members	\$30.00	February 1
	(C) Admittees before May 31	\$100.00	46 days from invoice date
	(D) Admittees after June 1	\$50.00	46 days from invoice date
2.15	(A) Scaling deadline for qualified active members (25 % reduction active membership fees of \$400)	\$300.00	February 1
	(B) Scaling deadline for qualified employers (25 % reduction active membership fees of \$400)	\$300.00	February 1
2.31	(A) Transfer to active status	\$400.00	For transfer at any time
	(B) Transfer to inactive status	\$125.00	February 1
2.33	(C)(2) Reinstatement fee to terminate suspension for nonpayment	\$100.00	At time reinstatement is requested